

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

MERRILL LYNCH CREDIT CORP.,)	
)	
Plaintiff,)	
)	
v.)	
)	Civ. No. 1995-053
JAMES KING and OMAH KING, ATLANTIC)	
STEEL CORP., and VIRGIN ISLANDS)	
BUREAU OF INTERNAL REVENUE,)	
)	
Defendants.)	
_____)	
ATLANTIC STEEL CORP.,)	
)	
Cross-Claimant,)	
)	
v.)	
)	
JAMES KING and OMAH KING,)	
BUCCANEER MALL ASSOC., INC,)	
)	
Cross-Defendants.)	
_____)	

MEMORANDUM

MOORE, J.

This matter is before the Court upon James and Omah King's [the "Kings"] Emergency Motion to Reconsider Confirmation of Sale to Atlantic Steel and Albert George, Motion to Vacate Judgment, Sale and Confirmation of Sale, and Motion to File Notice of Appeal Out of Time.¹ The Court will treat the emergency motion

¹ Each of these three motions was apparently filed in multiple copies on several occasions. See Docket Nos. 107, 110, 111, 113, 114, 115, 116.

to reconsider the confirmation of sale as a Rule 60 motion for relief from an order.

The Kings' only discernable basis, other than grounds previously disposed of by the Court, for their motion to reconsider is that they were not served with a copy of the August 11, 2000, order confirming sale, "when the court [was] aware that James and Omah King filed Pro Se." (See Kings' Emer. Mot. Recons. at 1, Sept. 19, 2000.) It is simply not a true statement to say that the Court was aware that the Kings were unrepresented when the Court confirmed the sale. The Court file shows that the Kings have been represented by several attorneys throughout the course of this litigation, including the law firm of Hodge & Sheen until January, 1996, and Denise George-Counts from March, 1996, until she withdrew in February of 1997. While no other attorneys immediately entered formal appearances for the Kings, Sharon Schoenleben. Esq., appeared for the Kings through a motion filed in February of 1999, and Vincent A Fuller, Jr., Esq. appeared through pleadings from April until September of 1999. Attorney Fuller is the last attorney of record to represent the Kings, and the Court has never received notice of his desire to withdraw, a motion to withdraw, or any request from the Kings that his representation of them in this litigation be terminated. Attorney Fuller was the attorney of record when the Court issued

its August 11, 2000, order confirming sale, and he was included on the distribution list.² The Kings have submitted no affidavits or other evidence that their attorney of record did not timely receive a copy of the order confirming the sale or any other orders.

The Kings' other reasons the Court should reconsider its order confirming sale all amount to rehashes of prior arguments, which this Court already addressed and rejected in earlier memoranda and orders. Finding that none of the reasons for relief enumerated under Rule 60 applies in this case, the Court will deny the motion to reconsider. For the same reasons, the Court will deny the motion to vacate the judgment, sale and confirmation of sale.

The Kings failed to timely appeal this Court's June 12, 2000, order denying their previous motions to reconsider and to vacate orders. Their present motion to file a notice of appeal out of time is similarly rejected, since it is based on their claim that they did not receive the June 12th memorandum and order until July 19, 2000.³ Again, the Court's copies of the

² The fact that the Kings, on July 21, 2000, began to file motions which they signed "*pro se*" is hardly sufficient notice that Attorney Fuller no longer represented them.

³ The affidavit attached to the Kings' motion only says that they received "the orders from the District Court of the Virgin Islands." The Kings do not swear that this is either the first or only copy of the orders they received.

memorandum and order show that it was distributed to their counsel of record, and there is no suggestion that he did not receive the memorandum and order. Even the Kings have not suggested that Attorney Fuller did not represent them on June 12, 2000. Accordingly, this Court will deny the Kings' motion to file their notice of appeal out of time.

An order of even date follows.

ENTERED this 25th day of January, 2001.

FOR THE COURT:

_____/s/_____
Thomas K. Moore
District Judge

ATTEST:
WILFREDO MORALES
Clerk of the Court

By: _____/s/_____
Deputy Clerk